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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written submission by the Commission on Human Rights of the Philippines*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Commission on Human Rights of the Philippines**, reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with "A" status accreditation from the Global Alliance of National Institutions for the Promotion and Protection of Human Rights.

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Annex

[English only]

Submission by the Commission on Human Rights of the Philippines

Annual Full-day Meeting: Rights of the Child

Right to Education

1. "The Philippine government has responded to the challenge of the UNCRC and other international obligations on education with a fairly adequate policy environment and an increasing budget. It has instituted policies geared towards improving access to early childhood education, basic education, technical-vocational education, and non-formal education. Programs and coordinating bodies were established to create equity for education among minority groups such as Muslims, children in indigenous communities, children with special needs, and the very poor. Its biggest feat is institutionalizing the K-12 Program, whose main feature is the addition of two years in basic education to bring the country's basic education cycle at par with the others. The K-12 Program likewise responds to the goals of education for sustainable development specified in SDG 4. Moreover, DepEd has instituted the school-based Disaster Risk Reduction Management and the Child Protection Policy, in order to provide further protection for children in the schools. The Conditional Cash Transfer program on the other hand aimed to support attendance among very poor."[1]

Migration has a negative impact on children and families

2. In a recent Systematic Literature Review on Drivers of Violence affecting Children in the Philippines (2015), migration has been identified as one of the drivers of physical, sexual and emotional violence against children.

3. "Migrant orphans deal with the impact of migration, with its "side-effects". Often, adults perceive migration as a means of economic empowerment for the family but what most fail to see is the impact on the children, which usually depends on the developmental stage when the parent or parents left in tandem with other socio-cultural factors. In general, the younger the child, the more difficult and deeper the effects, and with adolescents the effects are more visible. Adjusting to the changes brought about by parental migration, children become susceptible to bullying, poorer social adjustment, constant wish to be with parent and longing for parent's love, enmeshment and reversal of roles with older children becoming caregivers to their siblings, changing roles of parents, migration perceived as the passport to a better life without thinking of psychological costs, creating a generation that equates money and gifts to show care and love, and increased risk of abuse."[2]

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[1] Discussion Paper on Access to and Quality of Education: The perennial problems of basic education and how do we go beyond business as usual, Civil Society Coalition on the Convention on the Rights of the Child Inc. (CSC-CRC), November 2016

[2] Executive Summary on Research Forum:Boys and Girls at Risk, National Baseline Study on Violence Against Children, Council for the Welfare of Children in partnership with UNICEF, item 2,8, p. 8.

Alcohol Use is a Primary Driver of Violence in the Home

4. "There are existing laws that prohibit the sale of alcohol without a permit issued by the local government. However, small sari-sari stores sell alcohol in communities, thus making them more accessible and prone to abusive use. Stricter monitoring is needed to be done. DOH has existing campaigns on preventing lifestyle diseases which includes discouraging alcohol abuse. However, this program needs to be enhanced with prevention of VAC since the Systematic Literature Review on Drivers of Violence affecting Children in the Philippines (2015) noted that alcohol use is a primary driver of violence in the home."[3]

Information and Communications technology have changed the opportunity, scale, form and impact of exploitation and violence.

5. "Over the years there have been evolving manifestations of sexual exploitation and abuse online; and these include sexual abuse images of children, sexual grooming, 'sexting' or self-produced content, sextortion, and the live-stream shows of child sexual abuse. Perpetrators have tapped into this increasing access to technology, giving them more opportunities to reach children. It also gives them false sense of anonymity, an opportunity to form their own community online to share and distribute child abuse images, and validate their own deviant behaviours. The exploitation and abuse of children online has become a major threat to children's well-being, growth and development, and must be treated as critical component of a broader and comprehensive strategy to prevent and respond to Violence against Children (VAC)."[4]

The Philippines has the youngest age of sexual consent in Asia

6. "The indicative survey of age of sexual consent in Asia showed that the Philippines has one of the youngest at 12 years old while Bahrain the oldest at 21 years old; other countries in the region fluctuate between 14-18 years old. In the Philippines, there really is no minimum age of sexual consent. However, the law on statutory rape (12 years old), the anti-rape law on marriageable age (18 yrs old) are considered setting such age, as reported by the Philippines in its first two country implementation reports on the Convention of the Rights of the Child (CRC). For that, it is recommended that the Philippines should seriously consider to raise the limit of sexual content. One of the challenges to this advocacy was the lack of traction from previous efforts, that it began in the 12th Congress but still critical to continue to work using a multidisciplinary approach and consider other cultural practices and laws such as Sharia Law."[5]

Impact of the War on Drugs on Women and Children

7. With the new administration's focus on the war on drugs and the rising number of alleged extrajudicial killings (EJKs) the Commission has been focused as well in the investigation and monitoring of extrajudicial killings of men and women allegedly involved in drugs. Since the President took office, the PNP has reported 5,617 drug related killings, 1, 959 reportedly at the hands of the police, and 3,658 from vigilante killings. Of this

[3] Executive Summary, 2015 National Survey Results Recommendations, Council for Welfare of Children in partnership with UNICEF, p. 7

[4] *Executive Summary on Research Forum Boys and Girls at Risk*, National Baseline Study on Violence Against Children, Council for the Welfare of Children in partnership with UNICEF, item 2.5, p. 8.

[5] Ibid, item 2.7, p. 8

number, the Commission has commenced investigation of 346 cases involving 430 victims of alleged EJKs. Of the 430 victims, 19 or 4% are females, and these include the 5 victims who were not the actual targets of the killings and considered collateral damage. Five of the 19 women were either wife or live-in partners of suspected drug personalities, but were alleged to also be involved in illegal drug trade. For the rest, the victims were killed by police officers or unidentified assassins on suspicion of being drug pushers or links with drug-related activities.

8. In the conduct of the Commission's investigation, monitoring and reporting of EJKs, the Commission focuses as well on the gendered nature of the war on drugs – how it affects women and children and how this war has impact on women and children's enjoyment of their human rights. In the report of the Commission's Protection Office, the following were highlighted:

a. While lesser in number, women are likewise victims in the government's war on drugs. Records of the Commission show 19 of the 430 victims were women, and of this number 5 victims were not actual targets of the killings.

b. Investigation of the Commission's regional offices also reveal that family members of victims of EJK are affected in various ways by the killings, as families and women left behind, the families of the victims often witnessed the killings and thereafter left to fend for their own and their children, they are often left with questions of safety and security and of the burden of seeking justice and of identifying and burying their dead. In some cases, they are likewise victims of human rights violations. In Region 5, it has been reported that drug related EJKs and other violations cause emotional distress and psychological suffering to the victim's widow and children who are constantly in fear for their lives. This insecurity impacts their choice of residence and means of livelihood or economic status as most of these families are forced to relocate or live somewhere else. The regions also report that these survivors often find it nearly impossible to find witnesses with first-hand knowledge and that even if they do – most do not have the courage to seek justice, lacking confidence in the criminal justice system and for fear of reprisal.

c. Reports from the Commission's regional offices likewise show that families left behind, often wives, live in partners, children or mothers of victims suffer from trauma, fear and other psychological problems. Children bore witness to the killing of their fathers, wives and live in partners see their husbands dragged only to hear of their subsequent deaths, and there are reports as well of mothers, identifying cadavers of sons, and of waiting for sons who never returned.

d. Another gendered impact of the war on drugs is the economic burden on women caused by the deaths of husbands and live-in partners. The Commission's protection office has reported that the victims of the government's war on drugs are primarily from low socio-economic status. When the victims die, they hardly leave anything behind. The women, live-in partners, mothers and children who are left behind are often left with no livelihood and no means to support themselves. Saddled with the care of children, the details of burials and issues of safety and security, and access to justice for the killing, women's multiple burden is even more pronounced in the context of the country's war on drugs.

9. As the government continues to wage its war on drugs, as the number of deaths increase, as well as the number of detainees and surrenderees, areas that have not been duly attended to would have to be addressed. The impact of the war on drugs on women and children cannot remain invisible and unaddressed. They must be raised, they must be identified, and they must be aptly responded. The Commission commits to continue its investigation, including its focus on this specific area on the government's war on drugs[6].

[6] CHR Gender Ombud Report 2016

Minimum Age of Criminal Responsibility

10. A proposed legislation that seeks to revert the Minimum Age of Criminal Responsibility fifteen (15) to nine (9) is currently filed in the Congress. According to the proponents of this bill[7], it is the policy of the State to ensure that the Filipino youth are taught to accept responsibility for their words and deeds as early as possible, and not to unduly pamper them with impunity from criminal responsibility. In addition, the lawmakers believe the time is ripe for the age of criminal responsibility to be lowered to nine (9) years old considering that most children above this age, especially in these times, are already fully informed because of the wealth of information that they can easily access through the use of technology[8].

11. Under the proposed measure, a child nine (9) years of age and above but below 18 years old shall be exempt from criminal liability and subjected to an intervention program unless he/she is determined to have acted with discernment, in which case he/she shall be subjected to appropriate proceedings in accordance with the proposed law. On the other hand, a child under the age of nine (9) at the time of the commission of the offense shall be exempt from criminal responsibility but shall be subjected to an intervention program.

12. The Commission on Human Rights opposes any amendments which will lower MACR. It affirms its previous stance that lowering the MACR oversimplifies the nature of juvenile offending and violates the fundamental principles of child protection and welfare as provided for by laws, international treaties, and internationally-accepted standards and principles.

13. In lieu of the proposed legislation lowering the MACR, the Commission recommends that the government fully implement RA 9344, as amended by RA 10630, by:

e. allocating funds for building/restoring Bahay Pag Asa Facilities in every province and highly-urbanized cities;

f. employing multi-disciplinary personnel that will provide individualized and efficient community-based and/or center-based interventions for CICLs, the victims and their families;

g. continuously capacitating all professionals working with the juvenile justice system on relevant international standards and the JJWA;

h. regularly visiting Bahay Pag-Asa Facilities and other youth homes to assess the operations and physical condition of these facilities and to monitor the human rights situation of the children detained therein; and

i. popularizing, through information dissemination, the basic provisions of JJWA and restorative justice for better appreciation of the public.

14. The Commission further recommends that the law enforcers step up their campaign against syndicates who are using minors to commit crimes while keeping in mind that in these cases, children should not be treated as criminals but victims who need to be rescued and protected[9].

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[7] House Bill 002 was filed by incoming Speaker Pantaleon Alvarez, and Capiz Rep. Fredenil Castro

[8] Arcangel,Xianne, "Incoming Speaker Wants Age of Criminal Responsibility Lowered to 9", GMA News, Published July 6, 2016, Web 28 August 2016

[9] CHR Position Paper on Lowering the Age of MACR, 11 November 2016

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Written submission by the Azerbaijan: Human Rights Commissioner (Ombudsman)*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Azerbaijan: Human Rights Commissioner (Ombudsman)**, reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

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Annex

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Submission by the Azerbaijan: Human Rights Commissioner (Ombudsman)

The Statement of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan on children and armed conflict

Ensuring peace and non-violence in the world is a key factor for realization of human rights of people. Despite global efforts towards peace and security made by international organizations, unfortunately, people still suffer from gross violation of human rights as a result of armed conflicts today.

Considering harmful and long-term consequences of armed conflict on children and the fact that the rights of children require special protection, defending them from natural and manmade disasters, wars and armed conflicts and ensuring their development and education in conditions of peace and security is very important.

The role of National Human Rights Institutions in better protection of children in every country is very crucial, as all children should grow up in an atmosphere of love, peace, tolerance and equality.

Sustainable Development Goals (SDGs) of the 2030 Agenda for Sustainable Development adopted by world leaders in September 2015 at the UN Summit aim to significantly reduce all forms of violence, and work with governments and communities to find lasting solutions to conflict and insecurity. Ending abuse, exploitation, trafficking and all forms of violence against and torture of children is one of the targets towards implementation of SDGs.

According to the relevant Presidential Decree of Azerbaijan, National Coordinating Council on Sustainable Development of Azerbaijan Republic was set up and Ombudsman Office is represented in 3 working groups established within that council.

Children in the world suffered from armed conflicts both as combatant (unlawfully recruited, used in hostilities or otherwise associated with armed forces or armed groups) and civil citizens.

During conflict as a result of Armenian aggression against Azerbaijan, no child was recruited or involved in armed forces in our country by respecting for existing international and national legal norms. But children got tormented from atrocities as civil, innocent group of population.

Gross violations of the rights of children are observed during armed conflict based on the territorial claims of Armenia that have been lasting over 25 years and resulting in occupation of the twenty percent of the country territories, including seven surrounding districts. As a consequence, over one million of the Azerbaijani people became refugees and internally displaced persons, whose fundamental rights and freedoms were severely violated.

According to the official statistics, one third of them are children and teenagers, and most of them lost one or two parents. Many of them were killed or injured, became disabled, victims of torture, including rape and other forms of sexual violence and abuse.

One of the bloodiest events of this war was an act of genocide, committed by Armenians at the night from 25th to 26th February of 1992 against the population of Khojaly, when they destroyed and burned this historical and ancient settlement.

During the Khojaly genocide, 613 people, including 106 women, 63 children and 70 older people were killed; hundreds of people were severely injured; 1275 people were taken hostages. 8 families were totally exterminated, 25 children lost both, whereas 130 children lost one parent; captives and hostages were subjected to merciless torture. Human rights of those people, especially the fundamental right to life, were grossly violated.

This massive killing of human beings, committed by the Armenian invaders, unambiguously, is an act of genocide due to its unimaginable cruelty and tortures. All elements of the crime of genocide applied in Khojaly are fully in compliance with the legal definition of genocide enshrined in the UN Convention on the Prevention and Punishment of the Crime of Genocide from the 9th of December 1948.

According to the Order of the President of the Republic of Azerbaijan on the 25th Anniversary of Khojaly Genocide, plan of actions was approved and actions are being implemented.

Despite of cease fire regime from 1994 up to now Armenian side violates terms of this agreement; sets fire regularly, damages by shooting not only military servants, but also civilians at the boarders.

On 8 March of 2011 a nine-year-old boy Fariz Badalov, who was shot in the head by Armenian sniper in the yard of their home, from the occupied territory of Aghdam district, also on 14 July, 2011, 13-year-old girl Aygun Shahmaliyeva from Tovuz district, who was killed by explosive installation set to toy, became next victims of Armenian aggression additionally to long list of children – victims of war, who will never more grow up. It is a horrible act of not only Armenian policy against Azerbaijan aimed at ethnic cleansing and territorial claims, but also of international war history.

All of this is a violation of provisions of the UN Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children in Armed Conflict, Geneva Convention on Protection of war victims and its Optional Protocols.

Resolutions, passed by United Nations Security Council (822, 853, 874, 884 numbered) in 1993, which demand unconditional liberation of the occupied territories, UN General Assembly Resolution titled "Situation on the occupied territories of Azerbaijan" dated on March 14, 2008, Resolution 1416 from 2005 and Recommendation 1669 from 2009 of the Parliamentary Assembly of the Council of Europe (PACE) have not been fulfilled till now.

The European Parliament Resolution of 23 October, 2013 on Nagorno-Karabakh also re-affirms the support of just position of our State by the international community and the fact of occupation. This document denotes once again the importance of the settlement of the Nagorno-Karabakh conflict in conformity with the UN Security Council relevant Resolutions of 1993 that requires immediate, unconditional and total withdrawal of all occupant forces out of the territories of Azerbaijan. Regrettably, no relevant actions have been taken yet and the historical territories of Azerbaijan are still under the occupation.

Every year the Commissioner for Human Rights of the Republic of Azerbaijan submits statements on Armenian aggression, Khojaly genocide, 31 March genocide of Azerbaijanis and tragedy of 20 January, 1990 to international organizations, as well as the Ombudsmen of different countries, embassies. However, unfortunately, all these facts against the Azerbaijani civilians, including Khojaly genocide has not yet got its legal-political assessment, the planners, organizers and the committers of those crimes were not prosecuted and punished.

One of the important events on this issue is International Conference on "Protection of child rights in emergencies and the role of National Human Rights Institutions" organized

by the Commissioner in 2009 with the support of the Ministry of Emergency Situations and the Ministry of Ecology and Natural Resources. Baku declaration on "Protection of child rights in emergencies and the role of National Human Rights Institutions" was prepared at the end of the Conference. The issues of the protection of children's rights in emergencies, including the conditions of children in armed conflicts were broadly discussed with the participation of Children's rights Ombudsmen and international experts from different countries, video shots on occupation of the Azerbaijani Land by Armenia and Khojaly massacre were shown to the conference participants. It should especially be noted that children themselves took part in this conference and made speeches on the problem of protection of the rights of children in armed conflicts, refugee children and made art exhibition on this topic.

Within the framework of the "Child Year" announced in accordance with relevant Decree of the President of the Republic of Azerbaijan, on the eve of the anniversary of Khojaly massacre, on the initiative of Ombudsman, together with the Ministry of Education, signature collection campaign was held among children under the motto "We are Peace Envoys! Join us!" in order to deliver the truth about Azerbaijan to the world community and signatures of 310 000 school students, including refugee children, were collected in the lists which were forwarded to the UN Special Representative of the Secretary-General for Children and Armed Conflict.

Protection of the rights of refugee and internally displaced children is also enshrined in the first specialized report on children's rights of the Commissioner of Azerbaijan that has been sent to appropriate governmental bodies, UN CRC Committee, Council of Europe, ENOC, national and international NGOs on child rights. The report provides comprehensive information about the activity of the Ombudsman Office on children's rights since the beginning of its functioning, state policy on children's rights, international and national legislation in this field, proposals and recommendations aimed at better protection of children's rights.

This year the second specialized report on children's rights of the Commissioner of Azerbaijan is also being prepared to be dedicated to the 25th anniversary of ratification of CRC Convention, 15th anniversary of ratification of its two Optional Protocols.

Complementary report to the third and fourth periodic reports of the Republic of Azerbaijan prepared by the office was submitted to the UN CRC Committee in 2011.

Now we are in the process of making consultations with civil society and international organizations regarding preparing complementary reports on International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography, to be submitted to the related treaty bodies in the beginning of 2018.

We believe that each person from world community should condemn the inhuman acts resulted in killing of innocent children and in fact being directed against all children worldwide, also, take measures for raising their protest and preventing such cases in any country.

In general, for the better protection of world children from armed conflicts we propose to make joint efforts in taking legal measures for prohibiting compulsory recruitment of children into armed forces, also criminalize such practices conforming to CRC and its Protocols; adopting reintegration programs for the families of civil children suffered from armed conflicts; taking feasible measures for protecting refugee, internally displaced, hostage, disabled, uprooted children, child victims of trafficking, sexual exploitation and abuse; working out the tools for monitoring and evaluation of the status and needs of children suffered from armed conflicts, improving the conditions of education and health

services for them; promoting peace building activities and lobbying for culture of peace with the participation of children.